

Appeal from decision of the Wyoming State Office, Bureau of Land Management, declaring Ben #1 through Ben #10 lode mining claims abandoned and void. W MC 152123 through W MC 152132.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment--Mining Claims: Abandonment

The failure to file the instruments required by sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1 and 3833.2 in the proper Bureau of Land Management office within the time periods prescribed therein conclusively constitutes abandonment of the mining claim by the owner.

APPEARANCES: Ray Nyce, pro se.

OPINION BY ADMINISTRATIVE JUDGE FRAZIER

Ray Nyce appeals from the Wyoming State Office, Bureau of Land Management (BLM), decision dated November 24, 1980, which declared the Ben #1 through Ben #10 lode mining claims (W MC 152123 through W MC 152132) abandoned and void for failure to file evidence of annual assessment work or a notice of intention to hold the claims on or before October 22, 1979, as required by Section 314(a) of the Federal Land Policy and Management Act of 1976 (FLPMA), and the implementing regulation. 43 CFR 3833.2-1.

The claims were located on July 8, 1976, and certificates of location were filed with BLM on October 12, 1979. No evidence of assessment work or notice of intention to hold the claims was filed on that date or prior to October 22, 1979. Accordingly, BLM declared the claims abandoned and void.

On appeal appellant merely states that the recording information and fees were sent on time and that additional recording information was submitted. He also enclosed a copy of evidence of assessment work for 1980.

[1] Under section 314(b) of FLPMA, 43 U.S.C. 1744(b) (1976), and the applicable regulations 43 CFR 3833.1-2(a) the owner of an unpatented mining claim located prior to October 22, 1979 must file copies of the official notices of location in the designated BLM office on or before October 22, 1979. Appellant complied with this requirement when he filed his notices of location on October 12, 1979. Appellant failed, however, to comply with a second requirement. Section 314(a) of FLPMA, 43 U.S.C. 1744(a), and 43 CFR 3833.2-1(a) additionally require the owner of an unpatented mining claim located prior to October 21, 1976, to file evidence of assessment work for the preceeding assessment year or a notice of intention to hold the claim on or before October 22, 1979.

Under section 314(c) of FLPMA, 43 U.S.C. 1744(c) (1976), and its corresponding regulation, 43 CFR 3833.4(a), the failure to file timely either evidence of assessment work or notice of intention to hold is deemed conclusively to constitute abandonment of the claim by the owner and renders it void. Kerry & Ingrid Douglas, 53 IBLA 18 (1981); James V. Brady, 51 IBLA 361 (1980); Donald D. Vesely, 50 IBLA 277 (1980). When appellant failed to file the required document with BLM on or before October 22, 1979, BLM properly declared the claims void. Robert G. Sunder, 52 IBLA 375 (1981); Edward Forsberg, 47 IBLA 235 (1980).

Therefore, pursuant to the authority delegated to the Interior Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Gail M. Frazier

Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

